

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

BILLY HAYS,

Plaintiff,

v.

AMADOR CANTU,

Defendant.

Case No. 3:18-cv-00341-HZ

ORDER

HERNANDEZ, District Judge.

Plaintiff filed this prisoner civil rights case on February 23, 2018. On April 5, 2018, the Court entered an Order to Issue Process which directed service by the U.S. Marshal. Specifically, the Court called for the Clerk to issue process as to Defendant Cantu, and provided that "Service of the summons and Complaint shall be made by the United States Marshal's Service." Order (#6), p. 2. The Court also directed the Marshal's service to serve copies of the summons and Complaint

on the U.S. Attorney for the District of Oregon and the U.S. Attorney General.

In May 2018, process returns were filed with respect service upon the U.S. Attorney General and the local U.S. Attorney, but it appears that the Marshal's Service did not attempt to serve Defendant Cantu. As a result, Defendant Cantu now moves to dismiss the action for lack of service.

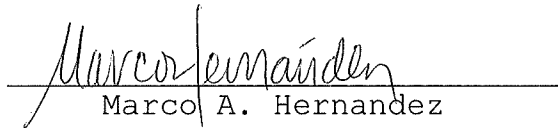
It is unclear why the U.S. Marshal's Service did not attempt to serve Defendant Cantu. However, the Court once again requires and directs that the U.S. Marshal's Service personally serve the summons and Complaint on Defendant Cantu. Where the defect in service is not attributable to any fault of the Plaintiff, the Motion to Dismiss for lack of service is denied.

CONCLUSION

Defendant's Motion to Dismiss (#13) is denied. The U.S. Marshal's Service is DIRECTED to personally serve the summons and Complaint on Defendant Cantu.

IT IS SO ORDERED.

DATED this 28 day of September, 2018.


Marco A. Hernandez
United States District Judge